



Department of General Services

**Minority Business Enterprise  
Utilization Procedures**

**November 2010**

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Governor

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# Department of General Services

## Minority Business Enterprise Utilization

### I. DEFINITIONS:

As used in this section, the following words have the following meanings (for additional definitions, see Title 14, Subtitle 3 of the State Finance and Procurement Article of the Annotated Code of Maryland (“SFP”) and COMAR 21.11.03)

- A. **Bidder:** includes both a bidder under procurement conducted by competitive sealed bidding and an offeror under procurement by competitive sealed proposals.
- B. **Minority Business Liaison:** the employee designated by the Secretary of the Department to enforce the Minority Business Enterprise Program.
- C. **Certification:** a determination by the Maryland Department of Transportation (MDOT) through the procedures outlined in SFP Title 14, Subtitle 3, COMAR 21.11.03, and COMAR 11.01.10 that a legal entity is a Minority Business Enterprise for the purpose of the regulations. Contractors seeking to be certified for a procurement solicited by designated departments or procurement agencies shall apply to the MDOT.
- D. **Commercially Useful Function:** work performed by an MBE which in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction of a kind for which there is a market outside the MBE Program, and is not a superfluous step added in an attempt to obtain credit toward achieving an MBE contract goal(s). Work performed by an MBE in a particular transaction can be counted toward MBE goals only if the Department determines that the MBE has performed a commercially useful function.
- E. **Joint Venture:** an association of two or more persons to carry out a single business activity for a limited purpose or time. A joint venture itself can never be certified as an MBE.
- F. **Minority Business Enterprise or MBE:** a legal entity that has been granted certification by the MDOT.
- G. **Minority Business Enterprise Goal and Sub-Goals:** the percentage under MBE law, required of the specified unit of State government, to structure its procurements so that a minimum of 25% of the total dollar value of its procurements overall is spent with MBE firms. **Sub-Goals:** Of the 25%, there are sub-goals of 7% to African-American and 10% to Woman Owned respectively.

H. **Procurement Officer:** any person authorized by the Department of General Services (DGS) in accordance with law or regulations to formulate, enter into, or administer procurement contracts or to make written determinations and findings with respect to them. The term also includes an authorized representative acting within the limits of authority.

I. **Solicitation Notice:** public notice of a solicitation for bids, offers, or expressions of interest which contains the nature of the procurement, relevant dates, the availability of solicitation documents, if any, and other pertinent information. The notice may consist of but is not limited to:

- (1) Legal advertisement;
- (2) Newspaper notice;
- (3) Bid Board notice; or
- (4) Bid or proposal documents including the invitation for bids or request for proposals.
- (5) eMaryland Marketplace (eMM) notice

J. **MBE Tier Subcontracting:**

A prime contractor must meet the MBE goal with first tier subcontractors. A prime contractor can not affirm to the State that they will meet the MBE goals with subcontractors MBE 2<sup>nd</sup> tier and beyond.

## II. PURPOSE:

Contractor shall structure its procedures for the performance of the work required in DGS contracts to achieve the Minority Business Enterprise (MBE) goal stated in the Invitation for Bids or Request for Proposals (RFP), or, if a Waiver is granted, in accordance with the terms of the Waiver. MBE performance must be in accordance with the requirements of the solicitation as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in the regulations.

## III. CONTRACTOR RESPONSIBILITIES

Maryland State requires the prime contractors to identify MBE participation at the time of bid on a State contract.

A. **Each bidder** is responsible for submitting with its bid, or prior to bid opening, evidence that would support a determination by the Department that the bidder will meet the MBE participation goal(s) established for the procurement. **A certified MBE contractor and a joint venture that includes MBE partner(s) is subject to the same requirements, goals, and sub-goals as a non-MBE contractor.**

B. Each bidder, **including MBE contractors bidding as primes**, must:

- (1) Identify specific work categories appropriate for subcontracting;

- (2) At least 10 days before bid opening, solicit MBEs, through written notice that:
  - (a) Describes the categories of work appropriate for subcontracting.
  - (b) Provides information regarding the type of work being solicited and specific instruction on how to submit a bid.
- (3) Attempt to make personal contact with the MBE firms capable of providing the categories of work appropriate for subcontracting;
- (4) Assist MBEs in fulfilling bonding requirements or in obtaining a waiver of those requirements; and
- (5) Attend pre-bid meetings or other meetings scheduled by DGS, in order to publicize contracting opportunities to Minority Business Enterprises.

#### **IV. MBE REQUIRED FORMS AND DOCUMENTS**

Each bidder agrees that upon acceptance of a bid, the bidder shall provide DGS with a list of all MBEs with which the contractor negotiated, including price quotes from MBE and non-MBE firms. The Department will make a finding whether the bidder complied, in good faith, with its obligations respecting the MBE requirements of the solicitation.

A. **(Attachment A) - Certified MBE Utilization and Fair Solicitation**

**Affidavit** Each bidder or offeror responding to a solicitation for which an MBE contract participation goal has been established shall submit this form with its bid or offer. The submission of this form is an acknowledgment of the MBE participation goal(s) and a commitment to make a good faith effort to achieve the goal(s). This form identifies the specific commitment of MBE participation at the time of submission or bid. Any change to the contractor's MBE Participation Schedule must be approved in advance by the BETS Office.

**Failure to submit this completed form with a bid or RFP shall result in a bid being deemed to be non-responsive or an offer being deemed to be not reasonably susceptible of award.**

B. **(Attachment B) - Outreach Efforts Compliance Statement**

The apparent low bidder must submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier. This form must be signed by the apparent low bidder.

C. **(Attachment C) – Subcontractor Project Participation Certification**

Each bidder or offeror responding to a solicitation for which an MBE contract participation goal(s) has been established must submit this form with its bid or offer. The Subcontractor Project Participation Certification must be signed by both the bidder and each MBE listed in the MDOT Certified MBE Utilization and Fair Solicitation Affidavit which shall include:

- (1) A contractor that is awarded a project by this Department must execute a Subcontractor Project Participation Certification Form Statement on each MBE subcontractor identified in the MBE

Utilization and Fair Solicitation Affidavit.. Copies of any subcontract agreement must also be furnished.

- (2) The prices agreed to be paid to each MBE for the work or supply.
- (3) The amount and type of bonds, if any, required of subcontractors. A description of work/services to be performed or furnished by the MBE.
- (4) A description of work/services to be performed or furnished by the MBE

**Failure to submit this completed form within ten working days after form has been requested shall result in a bid being deemed non-responsive or an offer being deemed to be not reasonably susceptible of award.**

D. **(Attachment D)** – Minority Contractor Waiver – Provide this completed form. Please see below, Section V. A. (4) for information required in this form.

E. **(Attachment E) - MBE Monthly Cost Breakdown for Progress Payment**  
Submitted monthly, for each MBE subcontractor listed or used in the contractor's MBE Participation Schedule. The contractor will also submit a copy of each invoice submitted by an MBE for work completed. To assure that the MBE participation goal is being met, the State may hold the retainage until completion of the project and/or proof is provided that the agreed MBE participation percentage is paid as agreed to MBEs.

If any document provided by a contractor or subcontractor during an audit, formal on-site compliance investigation, administrative contract compliance review, or on-site visit is found by the Department to contain false or misleading statements or information, the Department may take any action provided by law on the contract, including termination of the contract for default, and referral to the Office of the Attorney General, or other authorities for appropriate action.

- F. The apparent successful bidder shall furnish any other documentation considered appropriate by the Department to ascertain bidder responsibility in connection with the contract MBE participation goal.
- G. No award shall be made until all requirements relating to MBE participation have been met and documented by the contractor. If the contract has been awarded and the required documentation is not furnished, the award will be null and void. If the bidder or apparent awardee fails to submit each completed document within the required time, the Procurement Officer may determine that the bidder is not responsible and therefore not eligible for contract award.

## **V. WAIVER REQUEST**

According to COMAR 21.11.03.11 A, "if, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for each certified MBE classification specified as having a subcontract goal or the overall MBE contract goal, the bidder or offeror may request in writing a waiver to include the following:

- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE's, including the work to be performed by each MBE classification if a MBE sub goal has been specified, in order to increase the likelihood of achieving the stated goal;
- (2) A detailed statement of the efforts made to contact and negotiate with certified MBE's, and if appropriate, by certified MBE classification, including:
  - (a) The names, addresses, dates, telephone numbers, and classification of certified MBE's contacted, and
  - (b) A description of the information provided to certified MBE's regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
- (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
- (4) A list of certified MBE's including, if applicable, certified MBE's in each MBE classification, found to be unavailable, which shall be accompanied by an MBE unavailability verification form signed by the certified MBE, or a statement from the apparent successful bidder or offeror that the certified MBE refused to give the written verification;
- (5) The record of the apparent successful bidder's or offeror's compliance with the outreach efforts required under Regulation .09C (2) (a-e) of this chapter; and
- (6) If the request for a waiver is for a certain MBE classification within an overall MBE goal, the bidder or offeror shall demonstrate reasonable efforts to meet the overall MBE goal with other MBE classification or classifications.

B. A waiver of a certified MBE contract goal may be granted only upon **a reasonable demonstration** by the bidder or offeror that certified MBE subcontract participation was unable to be obtained, or was unable to be obtained at a reasonable price or in the appropriate MBE classifications, and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability of certified MBE's in the area in which the work is to be performed, other bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State or any other relevant factor."

## **VI. ADDITIONAL RECORDS AND REPORTS**

- A. The contractor shall maintain such records as are necessary to confirm compliance with its MBE utilization obligations. These records shall indicate the identity of all MBE and non-MBE subcontractors employed on the contract, the type of work performed by each, and the actual amount paid to each subcontractor.

- B. The contractor consents to provide such documentation as requested by DGS or another State representative and to provide right-of-entry at the job site or any other area determined by the MBE Liaison, at reasonable times, to allow the State's representatives to verify compliance with the contractor's MBE participation obligations. Contractor shall retain all records required by (A) above and make them available for State inspection for three (3) years after final completion of the contract.
- C. Upon completion of the contract and before final payment and/or release of retainage, the contractor shall submit a final report in affidavit form and under penalty of perjury, of all payments made to and amounts withheld from MBE subcontractors.

## **VII. ENFORCEMENT**

The Department will conduct Administrative Contract Compliance Reviews on a quarterly basis, and unannounced On-Site Contract Compliance Investigations to confirm compliance with the terms of these requirements. The contractor shall maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records maintained by the contractor shall indicate the identity of MBE and non-MBE subcontractors employed on the contract, the type of work performed by each, and the amount paid to each subcontractor. Subcontract agreements documenting the work performed by all MBE subcontractors shall be retained by the contractor and furnished to the Procurement Officer, MBE Liaison, or any other State representative upon request.

- A. Administrative Contract Compliance Reviews ensure that MBE participation was utilized on the contract as proposed in the approved MBE Participation Schedule. The prime contractor shall submit documentation as described in paragraphs A and B of this subsection and complete the following form:

**(Attachment F) – Unsatisfactory MBE Subcontractor Performance – Progress Report**

**(Attachment G) Subcontractor Payment Report**

The contractor shall include in its agreement with an MBE subcontractor a requirement that the subcontractor submit monthly to the DGS MBE liaison a report (Form DGS-MBE14L Subcontractor Payment Report) that identifies the contract, and lists all payments received from the contractor in the preceding 30 days, as well as all unpaid invoices of the subcontractor, including the amounts of those invoices.

- B. On-Site Contract Compliance investigations will be conducted by the MBE Liaison or designee. When conducting an on-site contract compliance investigation, the Department may provide written notification to the contractor, prior to the on-site visit. This notification will inform the contractor of the date, time and location of the visit. The contractor shall have the following documents available for inspection at the review:

- (1) Copies of purchase orders and subcontractor agreements;
- (2) Records of MBE subcontractors contract agreements, indicating the project number, names, dollar values, dates, and the scheduled times for each certified business to be



on the job site;

- (3) Any other documents requested by the Department prior to the on-site visit.

- C. If the Department determines that the contractor or subcontractor(s) is not in compliance with the contract requirements respecting MBE participation, the Department will notify the contractor of those measures which the contractor or subcontractor must take to restore the contractor or subcontractor to a state of compliance and the time within which these measures must be taken. If the contractor or subcontractor fails to take corrective action within the time required, the Department may report the noncompliance to the Board of Public Works for appropriate action and may take any and all other action permitted by law or the contract. When, in the judgment of DGS, circumstances warrant such action, DGS may, without notice to the contractor and without giving the contractor any opportunity to cure, take action to enforce the contractor's obligations under the contract respecting MBE participation.

**Failure to submit the requested documentation by the due date may adversely affect the right of the contractor or a subcontractor to participate in any future contracts awarded by the Department and may result in withholding of future progress payments to the contractor.**

- D. If any document provided by a contractor or subcontractor during an audit, formal on-site compliance investigation, administrative contract compliance review, or on-site visit is found by the Department to contain false or misleading statements or information, the Department may take any action provided by law or the contract, including termination of the contract for default and referral to the Office of the Attorney General or other authorities for appropriate action.
- E. DGS may request any and all other documents and information and may take any and all other actions permitted or required by Title 14, Subtitle 3 of the State Finance and Procurement Article and by COMAR 21.11.03 to enforce and ensure compliance with the law and the contract.
- F. If a MBE subcontractor is not performing in accordance with its contract, the contractor may request permission to remove or substitute that particular MBE. The contractor shall first provide written notification to the DGS inspector and the MBE Liaison of its intent to remove an MBE subcontractor. The contractor shall provide supporting information such as a breakdown of payments due the subcontractor, liquidated damages charged against the contractor or subcontractor as a result of the subcontractor's action or inaction, and other documents to show why the MBE subcontractor should be removed from the project. The contractor will submit this information to DGS BEO, who will then review the documents and may obtain additional documents from DGS Construction, Project Management, and Procurement. The BEO may also contact the MBE subcontractor. The BEO will then make a determination to approve or disapprove the request to remove the MBE subcontractor from the project.
- G. The bidder, by submitting a bid or offer, agrees: (1) to provide documentation as requested by the Department pursuant to COMAR 21.11.03; (2) to provide the State's representatives the right of entry onto the project site at any reasonable time for purposes of verifying compliance with the MBE subcontractor requirements, and (3) to comply in all respects with Title 14, Subtitle 3 of the

### **VIII. CONTRACTOR ASSISTANCE:**

The State of Maryland Minority Business Enterprise Directory contains information about currently certified Minority Business Enterprise. The MBE Directory, which is available on-line, can be accessed by contractors free of charge. Maryland Department of Transportation (MDOT) is the State's certification agency. MDOT's address is:

**MDOT OFFICE OF MINORITY BUSINESS ENTERPRISE**

7201 Corporate Center Drive  
Hanover MD 21076

**OR**

Phone - In-State - (410) 865-1269  
Toll Free-1-888-713-1414

You can also review and sort the MBE Directory at the MDOT website at

**<http://www.mdot.state.md.us>**

Contractors requiring assistance in completing the DGS MBE Forms should contact DGS' Business Enterprise and Technology Services at:

**BUSINESS ENTERPRISE AND TECHNOLOGY SERVICES**

The Department of General Services  
301 W. Preston Street  
Room M-9  
Baltimore, Maryland 21201

**OR**

Phone - In-State - 410-767-4270  
Toll Free -1-800-449-4947

You can also access the MBE Forms on our website at

**<http://www.dgs.maryland.gov/MBE/index.html>**

**Contractor and MBE subcontractors requiring assistance with contract financing, surety bond, guaranty fund, equity participation investment etc, can contact the:**

**MERIDIAN MANAGEMENT GROUP, INC.**

Maryland Small Business Development Financing Authority (MSBDFA)  
826 E. Baltimore Street  
Baltimore, Maryland 21202

**OR**

Phone - In-State 410- 333-2548

Fax Number: 410- 333-2552

Email Address: [contact@mmggroup.com](mailto:contact@mmggroup.com)

<mailto:contact@mmggroup.com>

Website: **<http://www.mmggroup.com/contact.html>**

# Appendix

## MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_ percent and, if specified in the solicitation, sub goals of \_\_\_\_ percent for MBEs classified as African American-owned and \_\_\_\_ percent for MBEs classified as women-owned. Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

### OR

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

2. ***I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.***

- (a) Outreach Efforts Compliance Statement (Attachment B)
- (b) Subcontractor Project Participation Statement (Attachment C)
- (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project. I hereby affirm that the MBE firms are only providing those products and services for which they are MDOT certified.

<b>Prime Contractor:</b> (Firm Name, Address, Phone)	<b>Project Description:</b>
<b>Project Number:</b>	

**List Information For Each Certified MBE Subcontractor On This Project**

Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors ( <i>Check Only One Certification Category</i> )	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors ( <i>Check Only One Certification Category</i> )	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors ( <i>Check Only One Certification Category</i> )	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors ( <i>Check Only One Certification Category</i> )	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors ( <i>Check Only One Certification Category</i> )	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	

## SUMMARY

Total <i>African-American</i> MBE Participation:	_____ %
Total <i>Woman-Owned</i> MBE Participation:	_____ %
Total <i>Other</i> Participation	_____ %
<b>Total <i>All</i> MBE Participation:</b>	_____ %

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

\_\_\_\_\_  
Signature of Affiant

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Department of General Services Outreach Efforts Compliance Statement

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_,  
I state the following:

(Please complete this form entirely)

1. Bidder/ Offeror identified opportunities to subcontract in these specific work categories:
  
  
  
  
  
  
  
  
  
  
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
  
  
  
  
  
  
  
  
  
  
3. Bidder/Offeror made the following attempts to contact personally the solicited MBEs:
  
  
  
  
  
  
  
  
  
  
4. ☐ Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)
  
  
  
  
  
  
  
  
  
  
- ☐ This project does not involve bonding requirements.
  
  
5. ☐ Bidder/Offeror did/did not attend the pre-bid conference  
☐ No pre-bid conference was held.

\_\_\_\_\_  
Bidder/Offeror Name

By: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**SUBMIT WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD**

## Subcontractor Project Participation Certification Attachment C

*Please complete and submit one form for each MDOT certified MBE listed on Attachment A within 10 working days of notification of apparent award.*

\_\_\_\_\_ (prime contractor) has entered into a contract with \_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or
- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name, Title  
Date

\_\_\_\_\_  
Name, Title  
Date



## Minority Contractor Waiver

<b>I HEREBY CERTIFY THAT THE FIRM OF</b>				
Project Number:		Firm Name:		
Date:	Address:	City	State	Zip
<b>CONTACTED THE MBE SUBCONTRACTOR, WHO IS SEEKING TO OBTAIN A BID FOR WORK/SERVICES IN RELATION TO THE ABOVE PROJECT NUMBER.</b>				
<b>1. MBE Firm Name:</b>		Services or Skills Needed:		
Address:		City	State	Zip
<b>2. MBE Firm Name :</b>		Services or Skills Needed:		
Address:		City	State	Zip
<b>3. MBE Firm Name :</b>		Services or Skills Needed:		
Address:		City	State	Zip
<b>4. MBE Firm Name :</b>		Services or Skills Needed:		
Address:		City	State	Zip
<b>TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID MBE SUBCONTRACTOR IS UNAVAILABLE FOR WORK/SERVICE IN RELATION TO THE ABOVE PROJECT, OR IS UNABLE TO PREPARE A BID FOR THE FOLLOWING REASON(S).</b>				
1. Reason(s)	MBE Signature (Optional)		Date	
2. Reason(s)	MBE Signature (Optional)		Date	
3. Reason(s)	MBE Signature (Optional)		Date	
4. Reason(s)	MBE Signature (Optional)		Date	
<b>I HEREBY CERTIFY THAT THE ABOVE MBE SUBCONTRACTOR(S) WAS OFFERED AN OPPORTUNITY TO BID ON THE ABOVE PROJECT BY THE ABOVE PRIME CONTRACTOR. THIS STATEMENT IS A TRUE ACCOUNT OF WHY THE ABOVE MBE SUBCONTRACTOR (S) DID NOT SUBMIT A BID ON THIS PROJECT.</b>				
Print Firm Name:		Firm Signature:		Date
Submit this document with your Waiver request on each MBE that is not available to perform				

SUBMIT WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD

**Department of General Services**  
**MBE Monthly Cost Breakdown Sheet**

SUBMIT THIS FORM MONTHLY WITH INVOICE

<b>Project Number:</b>	<b>Firm Name:</b>	<b>Application No:</b>		
		<b>Date:</b>		
<b>Project Description:</b>		<b>Period From:                      To</b>		
<b>Total Dollar Amount:</b>	<b>Construction Modification Dollar Amount:</b>	<b>Total Completion Dollar Amount</b>		
<b>MBE FIRM'S NAME</b>	<b>MBE COMMITTED DOLLAR AMOUNT</b>	<b>MBE AMOUNT PAID THIS REQUISITION</b>	<b>MBE % TO DATE</b>	<b>MBE TOTAL DOLLARS PAID TO DATE</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
<b>TOTALS</b>				
Prime Signature	Date	(DGS Official Only)		Date
		Inspectors		
Other Signature	Date	Regional Manager		Date
Other Signature	Date	Architect		Date
Other Signature	Date	Using Agency		Date

# Contract Compliance

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Alvin C. Collins  
Secretary

## MARYLAND DEPARTMENT OF GENERAL SERVICES

FACILITIES OPERATIONS & MAINTENANCE • FACILITIES PLANNING, DESIGN & CONSTRUCTION  
PROCUREMENT & LOGISTICS • REAL ESTATE

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### EXAMPLE LETTER

Date

Prime Contract Name

Address

Address

Dear Vendor

Re: Project Number  
Project Description

In accordance with Section Enforcement referencing the aforementioned contract, the Department of General Services is conducting an Administrative Contract Compliance Review. The compliance review will ensure our Department that the Minority Business Enterprise (MBE) participation on the contract as proposed in your approved MBE Schedule of Participation and/or Subcontract Project Participation Statement is met. Accordingly, the following items listed below are being requested from your firm:

- Copies of invoices, purchase orders, cancelled checks, & payroll;
- Copies of Contractual Agreements between the prime and MBE subcontractors;
- Copies of all Monthly MBE Progress Payment Report

Please return the above requested information to the Department of General Services: Business Enterprise Office, 301 West Preston Street, Suite M-9, Baltimore, Maryland 21201, before close of business (Date). The information which your company is being asked to complete and certify will be made part of the contract file and will be subject to confirmation audits by the Department of General Services.

Thank you for your anticipated cooperation. If you have any questions regarding this request, please contact me at 410-767-4270.

Sincerely,

Cc: Assistant Secretary, Procurement & Logistics  
Director, Business Enterprise Office  
Contract File

**DEPARTMENT OF GENERAL SERVICES  
UNSATISFACTORY MBE SUBCONTRACTOR PERFORMANCE AND  
PROGRESS REPORT**

The Unsatisfactory Performance/Progress report should be utilized when an MBE subcontractor performs in an unsatisfactory manner during the course of its contract. This report is to be completed by the project inspector and returned to the BEO Office. Use a separate form for each MBE subcontractor and furnish any supporting information.

MBE SubcontractorContract Data

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Name

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Project Number

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Address

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Work Performed

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Check: Prime Contractor: 

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Joint Venture Partner: 

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Amount: 

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Completion Date: 

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Number of change orders issued on this contract: 

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Claims Pending: 

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This report is being filed:

☐ While contract is in progress report☐ At completion☐ With Monthly☐ After completion

COMPLIANCE - THIS FORM IS SUBMITTED BY PRIME FOR REPLACEMENT OF A MBE

## MBE UNSATISFACTORY PERFORMANCE AREAS

Provide all requested data. Place an "X" in the box next to the statements which describe the MBE Unsatisfactory Performance/Progress. Attach supporting information, records of any claims or disputes, and any other correspondences.

I. MBE Subcontractor's work progress is unsatisfactory

☐ At Start      ☐ In Progress      ☐ At Completion

Number of days allowed by contract for work completed to date: \_\_\_\_\_

Actual days required for work completed to date: \_\_\_\_\_

☐ MBE subcontractor's progress has had an adverse effect on work schedule or other contractors.

II. MBE subcontractor's performance is unsatisfactory in the following areas:

- ☐ Cooperation with other contractors, subcontractors, or other agencies.
- ☐ Attitude and concern toward public and property owners.
- ☐ Adequate response to Administration correspondence and/or instructions.
- ☐ Management of MBE Subcontractors.
- ☐ Supervision of contract
- ☐ Manpower (Quality/Quantity)
- ☐ Equipment (Quality, Type, Condition)
- ☐ Specification Awareness, Review, Planning
- ☐ Use or attempted use of materials not specified or approved
- ☐ Job safety practices
- ☐ Timely work progress
- ☐ Compliance with sediment and erosion control regulations
- ☐ Other (provide details)

III. The completed work is unsatisfactory in the following areas:

- ☐ Workmanship
- ☐ Compliance with specifications
- ☐ Final Clean-up
- ☐ Frequency and scope of problem appearing after completion
- ☐ Other (provide details)

IV. ☐ Complaints concerning MBE subcontractor's performance have been received and verified.

V. ☐ Unsatisfactory Performance has resulted in:

- ☐ A major problem resulting in substantial additional cost.
- ☐ A serious problem requiring special attention by the DGS Inspection or Administrative Services of a State Agency.
- ☐ Inconvenience and delays for the State, its Citizens, or other contractors or agencies.
- ☐ Other

Do you recommend the BEO Officer consider disqualification of this subcontractor based on performance on this contract?

☐ Yes      ☐ No

\_\_\_\_\_  
Project Inspector

\_\_\_\_\_  
Date

**Instructions:** A report of Unsatisfactory Performance or Progress should be initiated by the prime contractor, and the project inspector will complete this form. Details and all supporting data must be attached for each unsatisfactory category. Assure that this form along with any detailing supporting data be forwarded to the BEO Office.

COMPLIANCE - THIS FORM IS SUBMITTED BY PRIME FOR REPLACEMENT OF A MBE

**MARYLAND DEPARTMENT OF GENERAL SERVICES  
MINORITY BUSINESS ENTERPRISE PARTICIPATION  
SUBCONTRACTOR PAYMENT REPORT**

**To be completed monthly by MBE Subcontractor**

**Subcontractors Name** \_\_\_\_\_

Report

Month/Year \_\_\_\_\_

**Report due by 10th of following month.**

**Project Name:**

Project Number \_\_\_\_\_

Contracting Unit \_\_\_\_\_

Contract Amount \_\_\_\_\_

MBE Subcontract Amount \_\_\_\_\_

Contract Begin Date \_\_\_\_\_

Contract End Date \_\_\_\_\_

Services Provided \_\_\_\_\_

MBE Subcontractor Name \_\_\_\_\_

MDOT Certification # \_\_\_\_\_

Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Subcontractor Services Provided \_\_\_\_\_

**List all payments received from Prime Contractor in the preceding 30 days.**

1.

2.

3.

**Total Amount Paid \$** \_\_\_\_\_

**List dates and amounts of any outstanding Invoices.**

1.

2.

3.

**Total Dollars Unpaid \$** \_\_\_\_\_

**Grand Total Subcontract Amount Paid to date:** \_\_\_\_\_

Prime Contractor Name \_\_\_\_\_ Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Return completed form and any additional information as required to:

**eMail: [businessenterpriseoffice@dgs.state.md.us](mailto:businessenterpriseoffice@dgs.state.md.us) or**

**Mail: Department of General Services**

**Business Enterprise Office**

**301 W. Preston Street, M-9**

**Baltimore, MD 21201**

**410-767-4270**

Signature \_\_\_\_\_

Date \_\_\_\_\_